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January 7, 2002

EX PARTE

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98; Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147

Dear Ms. Dortch:

WorldCom previously showed that Verizon and SBC have placed arbitrary limits on the number of circuit migrations that they are willing to perform each month for competitive providers of facilities-based transport services.[1] Specifically, Verizon has repeatedly told WorldCom that it will "groom" no more than 700 circuits per month throughout Verizon territory. This contrasts sharply with BellSouth and Qwest, which have placed no arbitrary limits on their grooming performance, and have demonstrated the ability to perform as many as 2000 or more grooms per month.

The ceiling that Verizon has unilaterally placed on its obligation to cooperate with facilities-based competitors is a significant barrier to the development of transport competition. The existence of this ceiling has led WorldCom to conclude that it cannot cost-effectively extend competitive fiber transport facilities to additional Verizon central offices.[2] Verizon's ceiling also prevents WorldCom

[1] *See, e.g.*, October 1, 2002 letter from Henry G. Hultquist to Marlene H. Dortch, CC Docket No. 01-338.

[2] Verizon's refusal to perform a reasonable volume of circuit migrations has an impact on transport competition that is analogous to the impact of "hot-cut" operational barriers on competition in switching. In this case, Verizon has blatantly refused to perform timely circuit migrations for a facilities-based competitor.

from obtaining the full benefit of facilities that it has already installed. At its leisurely pace, it will take Verizon more than 35 months to complete all circuit migrations that WorldCom requires given its existing facilities' deployment. Thus, for almost 3 years WorldCom will be paying Verizon for transport services that it does not need and uses only because of Verizon's self-imposed ceiling.

In a recent *ex parte* letter, Verizon attempts to excuse itself with a series of illogical, misleading, and/or factually unsupportable arguments.[3] Verizon claims, variously, that: (1) there is no evidence that WorldCom's ability to provide competitive access service is impaired by Verizon's arbitrary ceiling; (2) WorldCom can compete using Verizon's special access services, competitive transport, or WorldCom's own facilities; (3) WorldCom is the cause of Verizon's inability to perform more than 700 grooms per month; and (4) there is no significant "backlog." The rest of this letter details the infirmities of Verizon's arguments.

Verizon's assertion that there is no evidence that WorldCom is impaired in providing competitive transport service does not withstand scrutiny. All available evidence demonstrates that there is little to no competition on most transport routes. According to Verizon's own "Fact Report," Verizon faces no competition whatsoever in 88 percent of its wire centers.[4] And only 3 percent of Verizon's wire centers have 3 or more competitive providers.[5]

This evidence is consistent with WorldCom's experience. WorldCom is able to self-provide or obtain from third parties transport to a small minority of the wire centers to which WorldCom requires dedicated transport. In most instances, WorldCom has no alternative to incumbent local exchange carriers such as Verizon.

Verizon's arbitrary ceiling on circuit migrations only makes matters worse. Because of Verizon's ceiling, WorldCom cannot justify the substantial investment that is required to extend facilities to additional Verizon wire centers. Verizon's policy is a significant barrier to competitive entry. Verizon has effectively limited WorldCom's fiber transport deployment to its existing footprint. In this

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[3] December 13, 2002 letter from W. Scott Randolph to Marlene H. Dortch, CC Docket No. 01-338.
[4] UNE Fact Report 2002 (filed with Verizon's initial comments on April 5, 2002), CC Docket No. 01-338, Section III-2, Table 1.
[5] *Id.*

circumstance, WorldCom is plainly impaired in providing competitive transport services.

As just described, for the majority of the wire centers to which WorldCom requires dedicated transport, it cannot compete with Verizon's special access transport services by self-providing or obtaining transport from third parties. Competitive transport is available to only a small minority of the wire centers to which WorldCom requires dedicated transport. Verizon nevertheless claims that WorldCom can compete without impairment with Verizon's special access transport services by purchasing Verizon's special access transport services. But that is nonsense. Verizon provides special access transport services at prices that grossly exceed its economic cost. For example, in the state of New York Verizon's per mile rate for DS-1 special access transport purchased under a five-year term plan is $17.79. The cost-based TELRIC rate is only $2.05 per mile.[6] Thus, if WorldCom must compete with Verizon's special access transport services by purchasing Verizon's special access transport services, WorldCom will incur per-mile costs that are nearly 9 times greater than Verizon's. Congress clearly mandated that this type of impairment be alleviated, by requiring incumbent local exchange carriers such as Verizon to provide unbundled transport at cost-based rates.

Perhaps recognizing the weakness of its impairment arguments, Verizon attempts to blame WorldCom for Verizon's imposition of an arbitrary ceiling on the number of circuit migrations that it will perform each month. This " blame the customer" strategy is one that only a monopolist could hope to get away with. In a competitive environment, when a supplier blames its failings on a customer, the customer will soon find a new supplier. Unfortunately, WorldCom has no choice but to continue to purchase most of its transport needs in the Verizon region from Verizon.

In any event, Verizon's attempts to blame WorldCom for Verizon's arbitrary grooming ceiling must fail. According to Verizon, since July Verizon has scheduled nearly 4000 circuit rearrangements for WorldCom and completed 3189 of them. Verizon claims that WorldCom was responsible for more than 500 of the orders that were not completed, and that

[6] As WorldCom showed previously, excessive per-mile transport charges imposed by Verizon and the other Bell Companies constitute powerful evidence of the absence of transport competition. *See*, October 29, 2002 letter from Henry G. Hultquist to Marlene H. Dortch, CC Docket No. 01-338. Distance-sensitive pricing has been largely competed out of existence in competitive telecommunications markets – as a hypothetical application of Verizon's per-mile charges to a New York-London private line DS-1 shows. Such a circuit would cost over $50,000 per month, far in excess of the current market price of around $1,000 per month.

since January WorldCom has canceled more than 500 orders. Even if these numbers are accurate, and WorldCom does not concede their accuracy, they are utterly irrelevant to Verizon's imposition of an arbitrary ceiling.

No matter what level of orders are placed, it is inevitable that some will be missed and some cancelled. Sometimes WorldCom causes an order to be missed. Sometimes Verizon causes an order to be missed. But the number of orders that fall out is simply not relevant to the number that Verizon will commit to perform. Verizon has arbitrarily refused to perform more than 700 grooms per month. If Verizon raised its commitment to 5000 grooms per month, some orders would still be missed, but more circuits would surely be migrated.

Verizon's other attempts to blame WorldCom fare no better. For example, Verizon claims that WorldCom restricts the hours in which it will allow work to be scheduled. This restriction is an effect, not a cause, of Verizon's arbitrary ceiling. Verizon has made it clear to WorldCom that expanding those hours would produce no increase in the number of grooms which Verizon performs. Thus, expanded hours provide no benefit to WorldCom. If Verizon has changed its mind on this question, then WorldCom will be pleased to extend the hours.

Verizon also claims that the work involved in circuit rearrangements is not as simple as a hot cut since, in some cases, manual re-wiring is required.[7] It may be true that some circuit migrations require manual re-wiring, but even if true it does not change the fact that Verizon has imposed an arbitrary limit on the number of grooms that it will perform. Other, smaller ILECs successfully perform many more grooms per month than Verizon. On a per-access-line-served basis, Verizon should be able to perform more than twice as many grooms each month as BellSouth, and more than three times as many as Qwest.[8] Instead, Verizon has

[7] Verizon conveniently ignores the fact that some circuit rearrangements do not require manual re-wiring. Moreover, hot cuts must be coordinated with LNP, while grooms do not involve LNP.

[8] According to the Statistics of Common Carriers, Verizon has approximately 82.2 million access lines, while BellSouth has 39.2 million and Qwest has 24.1 million. Verizon has also suggested that the grooms it performs are somehow different from those performed by BellSouth and Qwest. Not only is there no relevant difference, but Verizon could not lawfully obtain or possess information about the services that WorldCom purchases from BellSouth and Qwest. Information about the technical configuration of a telecommunications service constitutes customer proprietary network information that may not be disclosed to a third party such as Verizon without the customer's consent. 47 U.S.C. § 222(f)(1)(A).

arbitrarily limited its performance to approximately one-third of what those companies achieve.

Finally, Verizon claims that there is no " backlog" of ungroomed circuits. This is false. Verizon knows exactly where WorldCom has fiber-based collocations, and is well aware of the fact that WorldCom has thousands of circuits that are candidates for grooming. When the arbitrary ceiling that Verizon has created is eliminated, WorldCom will have no trouble increasing the number of grooms it requests each month.

Verizon has arbitrarily limited the number of circuit migrations that it will perform each month for facilities-based transport competitors. This limitation serves only to shield Verizon's special access revenues from loss to facilities-based competitors. It also signals to those competitors that additional network investment is futile, since Verizon will not cooperate in migrating circuits in a timely fashion to newly extended facilities. Verizon's refusal to groom circuits at a reasonable pace is a significant barrier to the construction and use of competitive transport facilities in Verizon territory. Given this barrier, the Commission must conclude that requesting carriers are impaired in providing competitive transport services throughout the Verizon region.

Sincerely,

__________/s/___________

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